Position Interlinkage between the EU Grids Package Permitting Directive and the Environmental Omnibus

The EU Grids Package is a central instrument to strengthen electricity grids as the backbone of Europe's decarbonized and electrified energy system. In parallel, the Environmental Omnibus reshapes the horizontal framework for environmental assessments, directly influencing how grid projects are permitted at national level. To ensure effective implementation, both initiatives must be coherent and complementary. E.ON supports targeted alignment, ensuring that the Grids Package and the Omnibus reinforce rather than dilute the acceleration measures foreseen for grids.

1. Overriding public interest must cover grid upgrades and expansion

The EU Grids Package establishes the construction and operation of electricity grids as being in the overriding public interest, serving public health and safety and giving them priority in permitting to accelerate deployment, while maintaining environmental safeguards and limited exceptions, including for cultural heritage.

E.ON Position

We strongly welcome that the EU Grids Package recognizes electricity grids as being in the overriding public interest, which is a crucial step to accelerate infrastructure deployment for the energy transition (see Article 8(8) of Directive (EU) 2019/944, as amended, and Recital (23)). To fully realize the benefits of this approach, we advocate for explicitly extending the overriding public interest presumption to refurbishment, modernization, repowering and expansion of existing infrastructure (in Article 1 (8)(b) article 16f RED, Article 2 (1) and Article 8(8) Electricity Directive). This would ensure that essential upgrades benefit from the same procedural priority and legal certainty as new projects, avoid regulatory gaps and inconsistent application across Member States, and enable the timely delivery of grid, renewable, storage and recharging infrastructure in line with the EU's climate-neutrality and electrification objectives. This is crucial given the structure of grid investment, where most projects focus on upgrading and reinforcing existing infrastructure rather than building entirely new assets. Clear, harmonized rules—also for cultural heritage cases—are essential to ensure the OPI framework is applied consistently and effectively.

2. Ensuring proportionate environmental assessment for effective grid upgrades

Transmission and distribution grids are long-lived assets that require continuous refurbishment and modernization. Refurbishment, modernization or repowering are essential to maintain security of supply, integrate renewables, and ensure that existing infrastructure supports the EU's climate-neutrality objectives while meeting evolving technical and environmental standards. Subjecting these projects to full environmental reassessment is disproportionate and slows down needed upgrades.

E.ON Position

We very much welcome the provision in the Grids Package allowing Member States to exempt the refurbishment, modernization or repowering of existing transmission and distribution infrastructure under justified circumstances from

a new environmental assessment (EMD Art. 8(9), 8(12); RED Art. 16c(4); Environmental Omnibus Art. 5). However, the current prohibition on any "additional space" would unnecessarily restrict grid upgrades. In practice, repowering or modernizing lines, substations, or other grid assets may require limited adjustments to land use - for example where existing switchgear must be replaced by SF6-free alternatives that can require more space than today's equipment. A rigid "no additional space" rule would therefore risk rendering the exemption ineffective and hinder the practical implementation of grid upgrades. Removing this restriction allows essential upgrades to proceed efficiently while remaining subject to applicable environmental mitigation requirements.

3. Making species protection rules workable for grid operations

For DSOs, legal uncertainty around the concept of "deliberate killing" has long been one of the most significant practical barriers to routine grid construction, reinforcement and maintenance. Even where comprehensive mitigation measures are applied, DSOs have faced disproportionate legal risks for unavoidable, incidental impacts during grid construction, reinforcement and maintenance.

E.ON Position

E.ON explicitly welcomes the clarification introduced by the Environmental Omnibus that occasional or incidental impacts are not considered deliberate where appropriate mitigation measures are applied. This clarification is essential for the practical and legally secure construction and operation of distribution grids. The Grids Package should fully and explicitly align with this approach, ensuring that grid projects – in particular upgrades and reinforcement of existing infrastructure – are no longer exposed to legal uncertainty under species protection law (Environmental Omnibus Art. 8; RED Art. 16b(2); EMD Art. 8(9)(c)).

4. Material preclusion to ensure predictable and timely grid deployment

For network operators, lengthy and repetitive legal disputes are a major source of delay for distribution grid projects, even where permitting procedures have been transparent and inclusive. Without safeguards, abusive or late-stage litigation can effectively undermine legally approved projects and slow down grid expansion that is essential for the energy transition.

E.ON Position

E.ON strongly supports the approach introduced by the Environmental Omnibus to limit legal challenges to arguments that were raised during the administrative procedure, provided that relevant information was made available early and transparently. This form of material preclusion is essential to prevent abusive litigation and to ensure legal certainty for grid projects. The Grids Package should explicitly align with this approach and introduce corresponding safeguards, as it currently does not address judicial challenges in a comparable manner (Environmental Omnibus Art. 6; RED Art. 15d).